

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at KNOXVILLE

BRIAN SHANE CALDWELL	)	
	)	
<i>Petitioner,</i>	)	
	)	
v.	)	No. 3:05-cv-200
	)	<i>Phillips</i>
	)	
VIRGINIA LEWIS, Warden	)	
	)	
<i>Respondent.</i>	)	

**JUDGMENT ORDER**

In accordance with the accompanying Memorandum, the respondent's motion to dismiss is **GRANTED**. The petition for the writ of habeas corpus is **DENIED** and this action is **DISMISSED WITH PREJUDICE**. Should the petitioner give timely notice of an appeal from this decision, such notice will be treated as an application for a certificate of appealability, which under the circumstances is hereby **DENIED**. The court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous.

**E N T E R:**

s/ Thomas W. Phillips  
United States District Judge